

SCHOOLS AND LIBRARIES (E-RATE)

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APPLICANTS

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Contracts

In general, a contract is a binding agreement, enforceable by law, between two or more parties that creates an obligation to do, or not do, something. Contract definitions and requirements are contained in each state's or territory's contract law.

Except for services to be delivered under non-contracted tariffed or month-to-month arrangements, applicants must sign a contract with the service provider before signing and submitting a completed FCC Form 471 (Description of Services Ordered and Certification Form). Applicants must be able to demonstrate that they had a signed and dated contract in place at the time they submitted a completed FCC Form 471.

Applicants must also comply with state and/or local contract law. Obtaining the service provider signature and date is not a program requirement, but state and/or local contract law may include this or other compliance requirements.

Signatures and Examples

Examples of acceptable standards for applicant signature and date in a contract are:

- Applicant handwritten signature and signature date
- Date contract awarded contained in the body of the contract
- Date contract awarded in the opening statements of the contract

When state and/or local contract law does not require the applicant to sign and date the contract, the applicant will be given the opportunity to complete a certification statement that affirms that the applicant is compliant with their state and/or local contract law.

Verbal agreements and quotes do not meet FCC requirements. Generally purchase orders do not meet USAC contract guidelines. We recommend that if applicants intend to use a purchase order as their contract, they check their state and/or local contract laws to ensure that purchase orders meet state and/or local contract requirements.

Types of Contracts

Qualified Existing Contracts

A qualified existing contract is:

- A signed, written contract executed pursuant to the posting of an FCC Form 470 in a previous funding year.
- A contract signed on or before July 10, 1997 and reported on an FCC Form 470 in a previous year as an existing contract.

Tariffed Services Provided Under Contract

A tariffed service provided under contract is a service offered under one or more tariffs and for which a contract has been signed. In all cases, funding requests for which a contract has been signed should be reported as contracted services. The FCC Form 471 Block 5 funding request should include the contract number, the contract award date, and the contract expiration date.

Multi-Year Contracts or Contracts with Voluntary Extensions

A multi-year contract is a contract that covers more than one year. For example, a three-year contract is a multi-year contract that would expire at the end of the third year. A contract including voluntary extensions is a contract that expires at the end of its original term but that may be voluntarily extended for one or more years pursuant to the provisions in the contract.

- For contracts signed pursuant to FCC Forms 470 posted for Funding Years (FY) before FY2011, to comply with FCC competitive bidding requirements the applicant must have indicated in its Request for Proposals (RFP) and/or on the FCC Form 470 its intent to enter into a multi-year contract for services or a contract that

includes voluntary extensions.

When voluntary extensions are indicated in Item 13 of FCC Form 470 and in the RFP, if an RFP was used, the applicant does not have to post a new FCC Form 470. In the event the FCC Form 470 does not indicate voluntary extensions, the contract cannot be extended beyond its original expiration date without posting a new FCC Form 470. However, note that the decision to extend a contract with voluntary extensions must occur before the FCC Form 471 is filed for the funding year when the contract would otherwise expire.

- For contracts signed pursuant to FCC Forms 470 posted for funding years beginning with FY2011, an applicant can sign a multi-year contract or a contract with voluntary extensions without indicating this intent. However, note that the decision to extend a contract with voluntary extensions must occur before the FCC Form 471 is filed for the funding year when the contract would otherwise expire.

The applicant must also indicate the type of services for which it is seeking a multi-year contract or a contract with voluntary extensions.

Non-Recurring Service Voluntary Extensions

FCC rules grant a limited extension of the competitive bidding rules for contracts for non-recurring services. "[C]ontracts for nonrecurring services may be voluntarily extended to coincide with the appropriate deadline for the implementation [of delivery and installation for nonrecurring services]. Parties may not, however, extend other contractual provisions beyond the dates established by the Commission's rules without complying with the competitive bidding process." (FCC 01-195 [PDF](#), released June 29, 2001). If an applicant is granted an extension of time for delivery and installation of non-recurring services, the applicant may extend the relevant contract without rebidding. Applicants should file an FCC Form 500 to notify USAC of the revised contract expiration date.

Multi-Year Contracts for Newly-Eligible Services or Entities

If the original FCC Form 470 or RFP did not include the newly-eligible services or entities, the applicant will be required to post a new FCC Form 470 for those services.

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